

REMARKS

Claims 1-20 are all the claims pending in the application. By this Amendment, Applicants cancel claims 21-24 without prejudice or disclaimer.

Statement of Substance of Interview

As an initial matter, Applicants' representative thanks the Examiner for the courtesies extended during the telephone interview conducted on June 12, 2008. In view of the helpful comments provided by the Examiner during the interview, and to expedite prosecution of the instant application, claims 1, 5, 10, and 14 have been amended. Applicants respectfully submit that the amendments place the application in immediate condition for allowance, as set forth in further detail below with respect to the prior art rejection of the claims and as preliminarily agreed to by the Examiner subject to further search (*also see* Interview Summary).

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Claim Rejections - 35 U.S.C. § 112

Claim 23 is rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Claim 23 has been canceled, and the features recited therein have been incorporated in claim 10. It is alleged in the Office Action that there is insufficient antecedent basis for “**the** increasing the power level” as set forth in the claim. Applicants respectfully disagree.

For example, prior to reciting this feature, claim 10 recites “when said computed average CB BER is greater than said predetermined BER threshold, increasing a power level of the

amplifier”. Therefore, there is sufficient antecedent basis for the subject claim limitation.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 112 rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-2, 5, 8, 9, and 19

Claims 1-2, 5, 8, 9, 19, and 21-22 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,864,547 to Strodtbeck *et al.* (“Strodtbeck”) in view of U.S. Patent No. 4,999,583 to Washburn *et al.* (“Washburn”), and further in view of U.S. Patent No. 5,999,832 to Vannatta *et al.* (“Vannatta”). For *at least* the following reasons, Applicants respectfully traverse the rejection.

Applicants do not acquiesce to this rejection. However, in order to expedite prosecution, Applicants amend claims 1 and 5 to recite, in some variation, that the signal is transmitted at the N power levels prior to the reducing the maximum allowed power of the amplifier. On page 8 of the Office Action, it is alleged that Washburn teaches this feature. As discussed during the interview, Applicants respectfully disagree.

In particular, Washburn does not teach or suggest transmitting a signal at a plurality of power levels. Further, in Washburn, each signal is adjusted based on an individual corresponding feedback signal, not a plurality of feedback signals (compare this with claim 5, e.g., which recites that the signal is transmitted at the N power levels prior to the reducing the maximum allowed power of the amplifier, and which further recites that the determination that the amplifier is approaching saturation is based on the BER messages, i.e., not just one feedback signal as Washburn’s technique teaches). The Examiner agreed that this amendment overcomes

the rejection based on the prior art of record (see the aforementioned Interview Summary).

Accordingly, Applicants respectfully submit that claims 1 and 5 are in immediate condition for allowance.

Claims 2, 8, 9, and 19 are patentable *at least* by virtue of their dependency.

Claims 3, 4, 6, and 7

Claims 3, 4, 6, and 7 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodbeck in view of Washburn and Vannatta, and further in view of U.S. Patent No. 5,991,280 to Ichiyoshi. Since claims 3, 4, 6, and 7 depend from claims 1 and 5, and since Ichiyoshi does not cure the deficient teachings of Strodbeck, Washburn, and Vannatta with respect to claims 1 and 5, Applicants respectfully submit that claims 3, 4, 6, and 7 are patentable *at least* by virtue of their dependency.

Claims 10-18

Claims 10-18 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodbeck in view of Ichiyoshi, and further in view of Vannatta. For *at least* the following reasons, Applicants respectfully traverse the rejection.

Amended claims 10 and 14 recite, in some variation, that the signal is transmitted at the N power levels prior to at least the increasing the power level of the amplifier. Therefore, claims 10 and 14 are patentable for *at least* reasons similar to those given above with respect to claim 1.

Claims 11-13 and 15-18 are patentable *at least* by virtue of their dependency.

Claim 20

Claims 20 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Strodbeck in view of Washburn and Vannatta, and further in view of U.S. Patent No. 6,212,360 to Fleming *et al.* ("Fleming"). Since claim 20 depends from claim 5, and since Fleming does not cure the deficient teachings of Strodbeck, Washburn, and Vannatta with respect to claim 5, Applicants respectfully submit that claim 20 is patentable *at least* by virtue of its dependency.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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